

Commissioner for Patents
Amendment dated September 22, 2005
Response to Office Action dated June 22, 2005
Page 5 of 6

Serial No.: 10/659885
Art Unit: 1763
Examiner: Goudreau
Docket No.: SC12765TP

REMARKS/ARGUMENTS

Claims 1-25 were pending and examined. The Office Action rejected claims 1, 6, and 21-23 under 35 USC § 102(e) as being anticipated by Nicholson *et al.* (U.S. Patent Publication No. 2005/0023689), hereinafter "Nicholson". The Examiner rejected claim 7 under 35 USC § 103(a) as being unpatentable over Nicholson. The Examiner allowed claims 8-20 and 24-25 and indicated claims 2-5 as reciting allowable subject matter. In this response, Applicant has amended claims 1, 3, 6, and 7 and canceled claim 2. Claims 1 and 3-25 remain pending.

Claim rejections under 35 USC § 102(e)

The Examiner rejected claims 1, 6, and 21-23 under Section 102(e) as being anticipated by Nicholson. Applicant first notes that although the Office Action Summary indicates claims 21-23 as being rejected, paragraph 2 of the detailed action indicates that claims 20-21 and 23 were rejected. Applicant believes that the Examiner intended to reject claims 21-23 (all of these being dependent on claim 1) and not to reject claim 20 (which depends on an allowed claim). Applicant's response herein is consistent with this interpretation.

In response to the rejection of independent claim 1, Applicant has amended the claim to incorporate the limitations of dependent claim 2, which is now canceled. Consistent with the Examiner's appropriate determination that claim 2 as originally presented recited matter that is allowable over the references, Applicant submits that claim 1 as amended and its dependent claims are equally allowable. Applicant, therefore, respectfully requests the Examiner to withdraw the Section 102(e) rejection.

With respect to the rejection of claim 6, Applicant first notes that, although claim 6 was indicated as being rejected in the Office Action Summary, claim 6 as previously submitted, depended on claim 2, which the Office Action indicated as reciting allowable subject matter. Under the rule that claims that depend on nonobvious parent claims are inherently nonobvious, see, e.g., MPEP 2143.03, citing *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988), Applicant believes that the summary page indication of claim 6 as being rejected was an oversight. In any event, claim 6 has been amended to depend on amended claim 1.

Commissioner for Patents
Amendment dated September 22, 2005
Response to Office Action dated June 22, 2005
Page 6 of 6

Serial No.: 10/659885
Art Unit: 1763
Examiner: Goudreau
Docket No.: SC12765TP

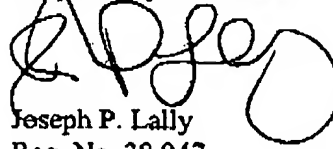
Claim rejections under 35 USC § 103(a)

The Office Action rejected claim 7 under Section 103(a) as being unpatentable over Nicholson. Applicant believes that, because claim 7 as previously presented was dependent on allowable claim 2, the rejection of claim 7 under Section 103(a) was in error under the In re Fine rule referred to above in the discussion of claim 6. In any event, claim 7 has been amended to depend on amended claim 1.

CONCLUSION

In the present response, Applicant has responded to the Examiner's claim rejections under 35 USC § 102(e) and 35 USC § 103(a). Accordingly, Applicant believes that this response constitutes a complete response to each of the issues raised in the office action. In light of the amendments made herein and the accompanying remarks, Applicant believes that the pending claims are in condition for allowance. Accordingly, Applicant would request the Examiner to withdraw the rejections, allow the pending claims, and advance the application to issue. If the Examiner has any questions, comments, or suggestions, the undersigned attorney would welcome and encourage a telephone conference at 512.428.9872.

Respectfully submitted,



Joseph P. Lally
Reg. No. 38,947
ATTORNEY FOR APPLICANT(S)

LALLY & LALLY, L.L.P.
P.O. Box 684749
Austin, Texas 78768-4749
512.428.9870
512.428.9871 (FAX)

JPL/mmnn

Attachments